

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 2140 - SB 2373

March 4, 2018

SUMMARY OF BILL: Establishes a procedure by which the Utility Management Review Board (UMRB) may authorize the sale of a utility district to a private party.

ESTIMATED FISCAL IMPACT:

Other Fiscal Impact – In the event a sale of a utility district is authorized for sale to a private party there will be a shift of indebtedness and infrastructure assets from the utility district to the private party; any sale proceeds, and thus any revenue impact to the utility district, are considered to be not significant. Any net impact on state government is not significant.

Assumptions:

- Pursuant to Tenn. Code Ann. § 7-82-301(a)(1)(A), a utility district is a public corporation and considered a “municipality”.
- Under current law, pursuant to Tenn. Code Ann. § 7-82-704, the UMRB is authorized to consider the consolidation of a financially-distressed utility district with another utility district, municipal utility system, or county utility system to restore financial stability and to ensure continued operations for the benefit of the public.
- The proposed language would establish a process by which the UMRB could authorize the sale of a utility district to a private party and negotiate the terms of the sale if the sale is requested by the governing body of the utility district or upon a determination that the sale is in the best interest of the public being served by the utility district.
- The UMRB can accomplish the requirements of the proposed language within existing resources.
- It is assumed that the UMRB will only approve of sales of financially-distressed utility districts.
- Under current law, pursuant to Tenn. Code Ann. § 7-82-401(g)(3), a financially-distressed utility district is a system that has either a deficit in total net position, is in default or an indebtedness, or has a negative change in net position for two consecutive years.
- Upon a sale of a utility district, the private party will assume all indebtedness as the consideration paid in order to acquire the infrastructure assets; therefore any increase in revenue from sale proceeds is considered not significant.

- The proposed language would, upon a sale of a utility district to a private party, subject the new privately-owned system to regulation by the Tennessee Public Utility Commission (TPUC).
- According to TPUC, upon a sale of a utility district to a private party, the privately-owned system will be required to obtain a certificate of convenience and necessity (CCN), at a fee of \$25 per CCN.
- Under current law, pursuant to Tenn. Code Ann. § 65-4-301, every public utility operating within the state is subject to inspection by the TPUC and is required to pay a fee for such inspection with such fees expended by the commission to offset costs associated with conducting such inspections.
- The TPUC is a self-funded agency; therefore any fees or revenue collected do not revert to the General Fund.
- Any increase in state revenue for the TPUC associated with additional fees collected from CCNs is estimated to be not significant.
- It is unknown how many private sales of utility districts will occur, resulting in the payment of inspection fees to the TPUC; however the net impact to state revenue for TPUC is considered not significant as any fees collected are collected for the purpose of funding required responsibilities of the agency.

IMPACT TO COMMERCE:

Other Fiscal Impact – A precise impact to commerce and jobs within Tennessee cannot reasonably be determined due to multiple unknown variables.

Assumption:

- Due to multiple unknown variables such as, the number of utility districts which will be sold to private parties, the extent of any terms negotiated for such purchase, the extent of any inspection fees which must be paid to the TPUC, the extent of any revenues realized by such private parties from the sale of utility service to customers, and if any private party will continue to employ current employees of the purchased utility district or hire new employees, a precise impact to commerce and jobs within Tennessee cannot reasonably be determined.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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